IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 2601/2003

M/S PRINCE STONE POLISHING INDUSTRIES
Vs.
THE STATE OF RAJASTHAN & ORS.

DATE: 22.08.2007.

HON'BLE MR. JUSTICE K.S. RATHORE

None present for the petitioner.
Mr. Amit Ratnawat for
Mr. R.B. Mathur for the respondents.

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Brief facts of the present case are that an assessment order for the year 1991-92 and 1992-93 was passed by the Commercial Taxes Officer, Anti Evasion, Kota on 04.10.99 and 16.03.2000 respectively and demand under Rajasthan Sales Tax Act was created against the assessee petitioner on the basis of survey conducted by Income Tax Department. The petitioner preferred an appeal before the Deputy Commissioner (Appeals), Kota under the provisions of Rajasthan Sales Tax Act and also filed a stay application and the Deputy Commissioner (Appeals), Kota vide its order dated 16.03.2001 granted stay for a period of six months.

[2]

This writ petition is preferred by the petitioner on the ground that as per the provisions of Rajasthan Sales Tax Act if the appeal is not decided, the stay order would expire in six months. The appeal has not been fixed by the Deputy Commissioner (Appeals), Commercial Taxes, Kota till filing of the writ petition and the stay is not operative and the Assessing Authority has issued a notice for recovery of stay amount from the petitioner, therefore, this writ petition.

In this writ petition the petitioner has prayed that the respondent No.4, the Commercial Taxes Officer may be directed not to take any coercive / recovery proceedings against the petitioner till the disposal of the appeal pending before the respondent No.3, The Deputy Commissioner (Appeals), Commercial Taxes, Kota.

Having considered the averments made in the writ petition and having heard learned counsel for the respondents, as the stay order is not in operation, therefore, the respondents have rightly issued notice for recovery and I find no illegality in the same. If the petitioner succeeds in appeal, he can ask for refund of the same, but in any case, no case of any interference is made out.

Consequently, the writ petition fails and the same is hereby dismissed.

This Court at the time of issuing notice, vide order dated 09.07.2003 stayed further recovery proceedings in the matter and since then four years period is already lapsed, therefore, I deem it proper to vacate the interim order dated 09.07.2003 and the same is hereby vacated.

(K.S. RATHORE),J.

/KKC/